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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,281	07/18/2003	Patrick L. Watson	EKIN:1001RCE	2401
34725	7590	11/13/2007	EXAMINER	
CHALKER FLORES, LLP			CHAU, MINH H	
2711 LBJ FRWY			ART UNIT	
Suite 1036			PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/623,281	Applicant(s) WATSON ET AL.	
	Examiner Minh H. Chau	Art Unit 2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 1-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. Prosecution on the merits of this application is reopened on **claims 37-46** considered unpatentable for the reasons indicated below:

Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

Claim Objections

2. Claim 37 is objected to because of the following informalities: The scented gel carrier was applying to a substrate (as recited in line 3); hence, how does it bond to the article (as recited in lines 6-7). This objection can be over come by replacing, for example: the word "article" with -- substrate --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 37-39, 41, 42, and 44-46** are rejected under 35 U.S.C. 102(e) as being anticipated by **Mullen** (US Pat. # 6,749,861).

With respect to **Independent claim 37**, **Mullen** teaches a method of applying a scent to an article, comprising the steps of applying a fragrance carrier or scented gel carrier to a substrate (Col. 1, lines 40-43 and 56-62), the fragrance carrier or the scented gel carrier comprises one or more scents dispersed in or about a polymer matrix comprising a plastisol-type composition and an adhesive or a tackifier (Col. 1, lines 40-52 and Col. 3, lines 16-29); and curing the scented gel carrier at a temperature that is at about or less than the flashpoint of the scent to bond the scent gel carrier to the article (Col. 1, lines 56+ and Col. 3, lines 16-29) such that the cleaning one or more washes with a mild detergent of the article will not remove the scented gel carrier from the article.

With respect to **claim 38**, see col. 3, line 30 through Col. 4, line 19 of **Mullen** that teach the step of applying a coating to the paper substrate.

With respect to **claim 39**, see col. 3, line 30 through Col. 4, line 19 of **Mullen** that teach the step of adding or applying a coating or a protective coating to the fragrance carrier or scented gel carrier.

With respect to **claim 41**, see col. 3, line 30 through Col. 4, line 19 of **Mullen** that teach the step of applying the fragrance carrier or the scented gel carrier to a surface of a substrate; the fragrance carrier comprising a scent. It is noted that the fragrances or scent is not generally visible during the use of the article.

With respect to **claim 42**, see Col. 3, lines 63-65 and Col. 4, lines 16-18 of **Mullen** that teach the fragrance carrier or the scented gel carrier is transparent or clear coating, which is clear or colorless.

With respect to **claim 44**, as explained in the rejection to claim 37 above, it is clear to one of skill in the art that an article of manufacture can be made in accordance with the method steps of claim 37.

With respect to **claim 45**, see Col. 1, lines 19-26 and Col. 3, line 30 through Col. 4, line 19 of **Mullen** that teach the use of the thickness or a thickener or a catalyst that reduce the transfer into porous substrates and to increase the strength of the scented gel carrier upon curing.

With respect to **claim 46**, see Col. 3, lines 32-41 of **Mullen** that teach the fragrance carrier or scented gel carrier includes a ratio of about 100 parts polymer matrix to about 2 to about 40 parts one or more scents.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 40** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Mullen** in view of **Fellows et al.** (US # 4,752,496).

With respect to **claim 40**, **Mullen** teach all the limitation as explained in the rejection above, except for the recitation of “the scented gel carrier is applied to the substrate by spraying”

Fellows et al. teach a method of applying a cosmetic or a scent to a substrate or an article (Col. 1, lines 6-9 and Col. 3, lines 35-68) comprising the step of applying the cosmetic slurry carrier or the scented gel carrier to the substrate by spraying (see Col. 5, lines 45-50).

In view of this teaching, it would have been obvious to one of skill in the art to modify the method of **Mullen** to include the method step of applying the cosmetic slurry carrier or the scented gel carrier to the substrate by spraying as taught by **Fellows et al.** so that the applying process of the scented gel carrier to the substrate can be carry out quickly and uniformly.

7. **Claim 43** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Mullen** in view of **Gunderman et al.** (US # 5,690,130).

With respect to **claim 43**, **Mullen** teach all the limitation as explained in the rejection above, except for the recitation of “the scented gel carrier is applied to the substrate by screen printing”.

Gunderman et al. teach a method of method of applying a cosmetic or a fragrance to a substrate or an article comprising the step of applying the fragrance carrier or the scented gel carrier to the substrate by screen printing (Col. 6, lines 45+).

In view of this teaching, it would have been obvious to one of skill in the art to modify the method of Mullen to include the method step of applying the fragrance carrier or the scented gel carrier to the substrate by screen printing as taught by **Gunderman et al.** to allow the thickness or the amount of the scented gel carrier applying to the substrate can be carry properly and uniformly.

Response to Arguments

8. Applicant's arguments with respect to claims 37-46 have been considered but are moot in view of the new ground(s) of rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh H. Chau whose telephone number is (571) 272-2156. The examiner can normally be reached on M - TH 9:30AM - 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MHC
October 19, 2007


MINH CHAU
PRIMARY EXAMINER